

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
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A La Carte and Themed Tier Programming)	MB Docket No. 04-207
and Pricing Options for Programming)	
Distribution on Cable Television and)	
Direct Broadcast Satellite Systems)	
)	
)	

COMMENTS OF LIFETIME ENTERTAINMENT SERVICES

Lifetime Entertainment Services (“Lifetime”) is a diverse multi-media company committed both to offering high quality programming responsive to the needs and interests of women and to addressing a wide range of issues affecting women and their families. It is Lifetime’s belief that any system of required a la carte or themed tier service offerings would have serious adverse consequences on the diversity, cost and quality of cable and satellite programming available to the American audience.¹

I. REQUIRED A LA CARTE OR THEMED TIER SERVICE WOULD REDUCE THE DIVERSITY OF PROGRAMMING AND CONSUMER CHOICE MADE POSSIBLE BY THE CURRENT SYSTEM.

We believe that the current system effectively permits the maximum number of viewers to have access to the maximum number of programming choices at the lowest possible cost. Among other matters, it appropriately creates myriad opportunities for cable and satellite

¹ *Comment Requested on A La Carte and Themed Tier Programming and Pricing Options for Programming and Pricing Options for Programming Distribution on Cable Television and Direct Broadcast Satellite Systems*, MB Docket No. 04-207, Public Notice, 19 FCC Rcd 9291 (May 25, 2004).

audiences to surf through the available program options, discover enjoyable and educational content that they might not have pre-selected, respond to marketing and advertising of new and changed content and formats, and have access in their homes to multiple types of content suitable for the multiple demographic interests of their families. This approach has led to the creation of “the most dynamic programming marketplace in the world.”²

By contrast, required a la carte and themed tiering effectively would encourage consumers to make their programming choices only once -- when they order their service packages -- and would render it unlikely that the choices, once made, will be expanded, contracted or undone, especially since consumers would necessarily incur additional costs to add services under these plans. In these models, consumers would make programming purchase decisions without the opportunity to experience the variety of available programming and would tend to choose services which are popular or which they have already watched.

As a result, programmers would necessarily find it increasingly difficult to attract and develop new audiences through the design and marketing of new program formats, services or other content offerings. They would be forced to define their missions as being largely to focus their content to retain the audiences they have, rather than to develop content that would create new or larger audiences. Thus, although proponents of a la carte or themed tier service maintain that these approaches would give consumers more opportunity to make tailored choices about programming, in fact their inevitable impact on creativity and risk-taking renders it

² National Cable & Telecommunications Association, Mandating A La Carte Distribution or “Family-Friendly” Tiering of Cable Networks Will Reduce Program Diversity and Increase Costs for Consumers, at 1 (Apr. 2004), *available at* http://www.ncta.com/pdf_files/IssueBriefs/AlaCarte.pdf (“NCTA Issues Brief”).

unmistakably clear that a la carte and themed tiering would necessarily reduce consumer choice at increased consumer expense in the long run.

Moreover, because a system incorporating a la carte or themed tiering would limit the potential size of the audience available to any service, it would over time diminish the size of the audience for many cable channels. A reduction in the number of viewers will lead to lower subscriber revenues and lower advertising revenues, both of which would force an increase in per service subscriber fees. Reduced revenues would also make innovation and investment in the creation of new services even more difficult and risky. Although some services with large audiences might be able to survive by raising subscription fees, many existing programming services would find survival and economic health far more problematic, particularly less widely-watched channels that target inherently smaller audiences.³ Both the loss of such niche services, which diversify programming available to consumers, and increased per service costs for consumers would be a serious blow to consumer choice and consumer economics.

³ Consumers are unlikely to subscribe on an a la carte basis to a channel they have never seen. See National Cable & Telecommunications Association, *The Pitfalls of A La Carte: Fewer Choices, Less Diversity, Higher Prices*, at 2 (May 2004), *available at* http://www.ncta.com/pdf_files/NCTA_White_Paper_-_Pitfalls_of_A_La_Carte.pdf (explaining that, under an a la carte system, “[m]any networks, particularly niche networks that target small, underserved audiences, would not be able to attract enough subscribers standing alone to generate the license fees or advertising revenues to cover the costs of the network. As a result, many existing niche networks will die and many new networks will not be created”); United States General Accounting Office, *Telecommunications: Issues Related to Competition and Subscriber Rates in the Cable Television Industry*, GAO-04-8, at 36 (Oct. 2003), *available at* <http://www.gao.gov/new.items/d048.pdf> (“Most of the cable networks we interviewed . . . believe that programming diversity would suffer under an à la carte system because some cable networks, especially small and independent networks, would not be able to gain enough subscribers to support the network.”).

In sum, required a la carte and themed tiering would reduce creative diversity -- both by creating audience silos that would be hard to break through and by reducing the economic capacity of most programmers even to try to do so. Similarly, new channels offering innovative services would likely be unable to attract enough viewers to generate subscriber and advertising revenues sufficient to cover the cost of programming;⁴ as a result, the number of new and innovative services likely to be developed can be expected to decrease and consumer costs for fewer programming options can be expected to increase. For these reasons, Lifetime opposes any system that would require a la carte or themed tier programming.

II. LIFETIME IS A PERFECT EXAMPLE OF THE HIGH-QUALITY, DIVERSE PROGRAMMING THAT HAS BEEN PERMITTED TO DEVELOP UNDER THE CURRENT MODEL.

Lifetime's networks are paradigmatic examples of the kind of diverse and innovative services capable of being developed under the current system. With its launch in 1984, Lifetime Television Network introduced the genre of women's entertainment to cable television. Because the current system gave Lifetime access to a large potential audience by allowing it to be introduced as part of a basic service package, Lifetime had the opportunity to create and modify new audience-desired content, services and formats on the network, and ultimately to market them broadly to a large potential audience; that is, the size of the potential audience justified comprehensive marketing and promotion efforts designed to call attention to

⁴ NCTA Issues Brief, at 1 ("Nearly all ad-supported networks launched as part of a programming package and were bundled with cable's earliest pioneers like ESPN, Nickelodeon, and CNN. Being part of a bundle allows new networks to build on the existing package's popularity, enabling them to attract the necessary viewership to gain advertising support.").

the network and the uniqueness of its programming and public service campaigns.⁵ Today, we think it fair to describe Lifetime as the leading voice in women's programming, and we believe that these opportunities for audience growth contributed significantly to that success and to Lifetime's ability to use the network not just to entertain, but also to provide the information and support our audience wants and uses.⁶

Although Lifetime provides continuous high quality women's entertainment on Lifetime Television, we have long recognized that one channel is not sufficient to satisfy the needs and interests of the women's audience. Lifetime has chosen to roll out two additional women's networks designed to fulfill diverse needs within the women's entertainment genre: Lifetime Movie Network and Lifetime Real Women. Lifetime Movie Network, launched in 1998, airs contemporary films for and about women, including made-for-television movies, mini-series, select theatrical films and independent film acquisitions. The network, which reached only 14 percent of total subscriber households in 2000, is increasingly available on basic and expanded basic levels of service and has achieved 46 percent penetration of subscriber households in 2004.⁷ Our hope is that Lifetime Movie Network will obtain significant lift from viewer sampling -- that the opportunity for consumers to surf to find it will be a source of significant growth in viewership. And Lifetime Real Women, launched in 2001, offers a full

⁵ Lifetime produces high quality original programming, including award-winning original series and Lifetime Original Movies, that both entertains viewers and informs them about issues of relevance to women. Our programming efforts have enabled us to cultivate a unique relationship with our viewers, giving Lifetime an opportunity to forge new ground in the women's entertainment industry by focusing attention on important women's issues through both programming and public policy educational campaigns.

⁶ Appendix A describes some of Lifetime's public affairs campaigns in more detail.

⁷ These data are based on subscriber figures from Nielsen Media Research, December 2000 and June 2004.

range of continuous reality-based programming told from women's points of view. Lifetime Real Women is an emerging network with approximately five million subscribers, and we are similarly seeking to expand its availability on basic and digital basic levels of service.

Lifetime's rollout of Lifetime Movie Network and Lifetime Real Women would have been considerably more risky -- if not impossible -- under an a la carte or themed tiering system. The current system makes plausible the inclusion of niche or genre-based services in broad basic or expanded basic analog or digital packages, with their larger audience bases. And the capacity to reach a large basic cable or satellite audience is no less essential for Lifetime's sister services than it was for Lifetime Television. Even with Lifetime's preeminent position, financial resources and longstanding commitment to the women's entertainment genre, the steps needed to roll out new networks -- and the efforts to achieve comprehensive audience penetration -- are risky, time-consuming and expensive. Because the current system allows networks ultimately to attract the support of large numbers of viewers and significant advertisers over time -- opportunities that could be eliminated or significantly reduced with the introduction of required a la carte or themed tiering -- it provides ample warrant for programmers such as Lifetime to take the risks inherent in new network rollouts.

Even as Lifetime has strived to diversify the services it offers to women, we recognize that the audience is well served by competition among separately-owned channels in the same genre. Competition is obviously beneficial to networks and consumers alike because it allows for the development of higher-quality and specialized programming even within a specific genre like women's entertainment, further enhancing the diversity of programming. In the same way that the current system has permitted Lifetime to roll out new services intended to meet the needs of its audience, it has also allowed for the launch of competitive women's networks.

Women's Entertainment, launched in 1997, and Oxygen, launched in 2000, have each achieved significant penetration of subscriber households and target specific niches of the women's entertainment genre. The success of competitive channels depends on features of the current system that would be lost upon the introduction of required a la carte or themed tiering; neither, we believe, would make competition among separately-owned channels in the same genre feasible or worth the risk.

The long-standing success of Lifetime Television, the burgeoning success of Lifetime's two new networks, and the launch of two competing women's entertainment networks are a testament to the diversity of programming that has developed under the current economic model. Such diversity would not have been likely to arise under an a la carte or themed tier system, however, because few, if any, of the networks devoted to women's content would have been able to tap large enough potential audiences -- to roll out and market high quality programming that viewers would discover and watch -- with sufficient speed to assure their survival and ultimate health.

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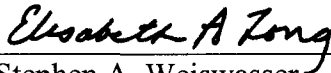
Lifetime's success in the women's entertainment industry demonstrates how the current system gives networks focused on particular audience segments the opportunity to launch and gradually amass viewers and advertising support. Moreover, the current system clearly supports the introduction and success of multiple services devoted to a particular genre, thereby allowing for the expression of different voices and promoting high-quality and low-cost programming that enhances consumer choice. Required a la carte or themed tier service would undermine opportunities for the introduction and carriage of independent and niche

programming, ultimately reducing the quality and diversity of programming available to consumers at a reasonable cost.

For these reasons, Lifetime urges the Commission to formulate Congressional recommendations that oppose this form of regulation of the cable and satellite industries, since such regulation would ultimately lead to a more homogenous body of programming that is less suited to fulfilling the needs and interests of diverse audiences.

Respectfully submitted,

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Appendix A

Lifetime's Public Awareness Campaigns

Lifetime's dedication to its viewers and the issues of interest to them extends beyond the scope of its programming. Because Lifetime strives to raise public awareness of a wide range of issues affecting women and their families through its programming, Lifetime is uniquely positioned as a network to encourage and facilitate social progress off the air as well.¹ The company has seized the opportunity to initiate public awareness and advocacy campaigns about specific issues, distributing critical information through original programming, public service announcements, educational materials,² Lifetime Online,³ and community events⁴ that help to change the lives of millions of women and their families.

Lifetime has addressed a variety of prominent social and health issues in recent years. For example, Lifetime's award-winning public awareness campaign "Stop Breast Cancer for Life," now in its 10th year, incorporates, among other things, programming such as a primetime benefit concert, specially-themed episodes of dramas, and public service

¹ In addition to the services Lifetime provides through its networks, it also offers informational services and entertainment to women through such ventures as Lifetime Online, *Lifetime*® magazine, Lifetime Radio for Women, home videos distributed by Lifetime Home Entertainment, and four Lifetime books.

² Lifetime develops education kits that correspond with some of the most popular Lifetime Original Movies to help teachers and guidance counselors address critical issues such as homelessness, teen depression and suicide, and sexual assault.

³ Among other things, Lifetime Online serves as a clearinghouse for breast cancer information, includes links for voter registration, informs readers about each of its current campaigns, and offers readers an opportunity to sign petitions advocating particular policy changes.

⁴ Lifetime's community outreach initiatives have included the distribution of postcards and brochures about subjects like breast cancer awareness and violence against women, the coordination of events at the Democratic and Republican National Conventions, and the co-hosting of "Women on the Path to New Success" events designed to help women transitioning from welfare to work and women interested in changing careers.

announcements; a clearinghouse for breast cancer information on Lifetimetv.com; and the Breast Cancer Hero Project, which salutes courageous breast cancer survivors and activists.

Lifetime Television has also launched the first comprehensive campaign by a television network to help stop violence against women. The campaign was recently recognized by President Bush at a special White House ceremony and received the special Governor's Award Emmy. The campaign includes original programming, public service announcements, community outreach efforts, online resources, Lifetime's annual "Stop Violence Against Women Week," which is held in Washington, D.C., and other initiatives. Lifetime has used similar resources in both its "Every Woman Counts" campaign, a non-partisan effort to encourage women to engage in the democratic process as voters and candidates for office, and its award-winning "Caring for Kids" campaign, which raises awareness about the importance of early childhood education and increased access to affordable child care. Lifetime has also encouraged women to "Be Your Own Hero," with a public awareness campaign that celebrates the strengths, talents, achievements and determination of women in order to help build self-empowerment among all women and girls.

Lifetime's role in these and other campaigns demonstrates its commitment not only to building its viewership, but also its active concern with giving its viewers a voice in the public sphere. As one U.S. Representative commented, "Without a cable network that is focused on women, we wouldn't continue to make progress."⁵

⁵ Senator Kay Bailey Hutchinson (R-TX) (commenting on Lifetime's "Every Woman Counts" campaign).

In partnership with more than 200 non-profit organizations, Lifetime also airs special public service messages following its original and acquired movies and series that offer hotline numbers and web resources to viewers needing additional information about the serious issues raised in the programs. The National Domestic Violence Hotline saw a 900 percent increase in calls immediately following an original public service announcement that Lifetime created and aired. We believe this uptick demonstrates how important it is for genre-based networks to be able to reach audiences that may not be fully aware of the range of content and services they offer.

Lifetime's public affairs campaigns reveal how genre-minded networks can build upon the unique relationships they have with their viewers to act as agents of progressive change. Hundreds of nonprofit organizations report that Lifetime's commitment to raising awareness about issues related to breast cancer, violence against women, race relations, human cloning, gay rights and AIDS has fostered greater understanding in their communities. Moreover, Lifetime's viewers praise the network for giving women a voice. Viewers have written to Lifetime to explain how Lifetime's programs and campaigns have assisted them in breaking the cycle of abusive relationships, detecting breast cancer in its early stages, deciding to finish high school, and becoming politically involved.

This evidence of Lifetime's impact on the community confirms that Lifetime is more than a cable network with programming devoted to women, and demonstrates the importance of an economic structure that permits diverse networks to emerge and thrive in order to serve consumers.